

## **REMARKS**

In the Office Action mailed September 29, 2006, claims 1, 3, 4, 8, 11, 12, 17, 20, 22 and 23 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-4 and 11-15 of U.S. Patent No. 6,729,227 in view of Morino et al.; claims 3, 9 and 10 were rejected under 35 U.S.C. 112, first paragraph; claims 1, 3, 6, 8-20, 22 and 23 were rejected under 35 U.S.C. 103(a) as being unpatentable over Morino et al. The foregoing rejections are respectfully traversed.

Regarding the double patenting rejections:

The Applicants respectfully request that the double patenting rejection be held in abeyance until the 112 and 103 rejections have been overcome.

Regarding the 112 rejections:

At page 3 of the Office Action, the Examiner asserts that there is no support in the original specification to support "a sensing member in the baking tray," as recited in claim 3 for example. The Applicants respectfully disagree. Support for paragraph [0036] and FIG. 4 previously added, can be found at paragraph [0009] of the original specification. Therefore, withdrawal of the 112 rejections is respectfully requested.

Regarding the 103 rejections:

Claims 1, 3, 14 and 20 have been amended to further clarify the present invention. Support for the claim amendments can be found at FIGS. 3 and 4 and paragraph [0008] of the specification, for example.

Claims 1, 3, 4, 6, 8-20, 22 and 23 are currently pending and under consideration. Reconsideration is respectfully requested.

Claim 1 has been amended to recite "...a tray sensor, to sense whether the baking tray is mounted in the bread making space, the tray sensor comprising: a sensing member provided in the door that contacts the baking tray when the door is closed **such that contact between the baking tray and the sensing member is dependent upon the closing of the door...**".

At page 4 of the Office Action, the Examiner admits that Morino fails to discuss "a sensing member provided in the door" as recited in claim 1, for example. However, the

Examiner asserts that it would be obvious to modify Morino such that the sensor of Morino is located in the door. However, the Applicants respectfully disagree.

In contrast, Morino discusses a heating apparatus including a heating chamber, a heating vessel, a control circuit a door switch 147 for detecting opening and closing of the door of the heating chamber, and a separate sensor 174 for detecting the present and absence of the heating vessel (see columns 15 and 16).

Further, in Morino, the sensor 174 includes a tube, an elastic plate and **a detection switch having a contact**. The tube is retractably fitted into a hole of the bottom wall of the heating chamber. The elastic plate supports a flange formed around an outer periphery of the tube and one end of the elastic plate is attached to a boss secured to a lower face of the bottom wall. The detection switch is attached to a bracket fixed to the lower face of the bottom wall and is turned on by downward movement of the elastic plate through contact of the elastic plate with the contact (see column 17, lines 1-19; and FIGS. 38 and 39). An opening is formed on a lower face of the heating vessel to receive an upper end portion of the tube **and when the heating vessel is loaded, the tube is depressed downwardly by the heating vessel and the elastic plate is brought into contact with the contact to turn on the detection switch**.

As previously mentioned, the sensor 174 for the heating vessel of Morino is not included in the door. Thus, as shown in FIG. 37 of Morino, there are two separate (i.e., independent) signals for respectively detecting the presence of the heating vessel in the heating chamber and the opening and closing of the door 34 (see column 16, lines 58-61). That is, the sensor 174 for detecting whether or not the heating vessel is loaded in the heating chamber is performed independently of whether or not the detection of the door is being performed because the sensor 174 is not associated with the door 34. Instead, as mentioned above, the sensor 174 is located inside the heating chamber (see FIG. 38, for example) such that it is positioned underneath the heating vessel, when the heating vessel is loaded into the heating chamber, in order to detect the presence of the heating vessel. Therefore, the teachings of Morino are fundamentally different from that of the present invention. Thus, it would not be obvious to modify Morino to include the sensor 174 in the door. Accordingly, the Applicants respectfully submit that Morino fails to establish a prima facie case of obviousness over the present invention.

Further, the suggestion by the Examiner to modify Morino to include the sensor 174 in the door would include the changing of basic principles under which Morino was designed to operate. In addition, to say that it would be obvious to one skilled in the art to disclose the features as recited in claim 1 of the present invention, for example, would be impermissible

hindsight.

Although the above comments are specifically directed to claim 1, it is respectfully submitted that the comments would be helpful in understanding differences of various other rejected claims over the cited reference.

Withdrawal of the 103 rejections is respectfully requested.

If there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: 12/12/2006

By: 

Deidre M. Davis  
Registration No. 52,797

1201 New York Ave, N.W., 7th Floor  
Washington, D.C. 20005  
Telephone: (202) 434-1500  
Facsimile: (202) 434-1501